

Amendment to the Claims:

1. (Currently Amended) ~~An ashtray,~~ A container for discarded smoking material comprising;

(a) a container having a container wall, an upper portion, a lower portion and a central portion located between said upper portion and said lower portion,

(b) ~~comprising~~ a closure mechanism located in said central portion for separating said upper portion from said lower portion and having an opening therein through which a bag may be inserted,

(c) a bag ~~that is present~~ within said lower, central and upper portions of said container and supported within said container by said wall of said upper portion, and

(d) an air eliminator that communicates with a the space in said lower portion that is between said bag and said container wall,

wherein said closure mechanism selectively applies pressure to said bag to separate ~~an~~ said upper portion of said bag from a said lower portion of said bag.

2. (Canceled).

3. (Canceled).

4. (Currently Amended) ~~An ashtray~~ The container as described in Claim 1, wherein ~~an~~ said upper portion of said container that supports said bag is funnel shaped.

5. (Canceled).

6. (Currently Amended) ~~An ashtray~~ The container as described in Claim 1, wherein said bag is flame retardant.

7. (Currently Amended) ~~An ashtray~~ The container as described in Claim 1, wherein a said lower portion of said container maybe selectively separated from an said upper portion of said container by said closure mechanism.

8. (Canceled).

9. (Currently Amended) ~~An ashtray~~ The container as described in Claim 1, wherein said air eliminator is a vacuum pump.

10. (Currently Amended) ~~An ashtray~~ The container as described in Claim 1, wherein said closure mechanism is spring biased to open and close said opening.

11. (Allowed and Currently Amended) A method of using the ~~ashtray~~ container of Claim 1, comprising the steps of:

(a) positioning said bag within said container, with an upper portion of said bag located above said closure mechanism, and lower portion of said bag positioned below said closure mechanism; and

(b) eliminating air from said space between said lower portion of said bag and said container by operating said air eliminator;

(c) actuating said closure mechanism to provide a conduit between said upper portion of said bag and said lower portion of said bag;

(d) inserting a burning object into an opening of said upper portion of said bag and allowing said burning object to travel to said lower portion of said bag;

(e) actuating said closure mechanism to separate said upper portion of said bag from said lower portion of said bag;

wherein said burning object is extinguished.

12. (Allowed and Currently Amended) ~~A~~ The method of using the ashtray container as described in Claim 11, wherein a lower portion of said container is separated from an upper portion of said container so as to provide an opening in said container, and said bag is removed through said opening in said container.

13. (Currently Amended) ~~An ashtray,~~ A container for discarded smoking material comprising,

(a) a container having a container wall, an upper portion, a lower portion and a central portion located between said upper portion and said lower portion,

(b) a bag ~~that is present within said container~~ said lower, central and upper portions of said container and supported within said container by said wall of said upper portion, and

(c) an air eliminator that communicates with an enclosed space that is formed between an outside surface of said bag and ~~an~~ the interior of said lower portion of said container, wherein said air eliminator pulls air from said enclosed space that is formed between said outside surface of said bag and an interior portion of said container, ~~and~~

(d) means for sealing ~~wherein said bag is sealed~~ against said container at an opening of said container, and

wherein, when said bag is in position in said container and sealed against said container, and ~~the ashtray~~ said container is in use, additional air does not enter said enclosed space.

14. (Currently Amended) ~~An ashtray~~ The container as described in Claim 13, wherein said bag is pulled against said interior portion of said container wall as said air is evacuated from said enclosed space.

15. (Currently Amended) ~~An ashtray~~ The container as described in Claim 13, wherein an upper portion of said container supports said bag and is funnel shaped.

16. (Currently Amended) ~~An ashtray~~ The container as described in Claim 13, ~~further comprising~~ wherein said sealing means is a closure mechanism that selectively applies pressure to said bag to separate an upper portion of said bag from a lower portion of said bag wherein an upper portion of said container that is above said closure mechanism is funnel shaped.

17. (Currently Amended) ~~An ashtray~~ The container as described in Claim 13, wherein said bag is flame retardant.

18. (Currently Amended) ~~An ashtray~~ The container as described in Claim 13, wherein a lower portion of said container maybe selectively separated from an upper portion of said container.

19. (Currently Amended) ~~An ashtray~~ The container as described in Claim 13, wherein said air eliminator is a vacuum pump.

20. (Currently Amended) ~~An ashtray~~ The container as described in Claim 13, wherein said closure mechanism is spring biased.

21. (New) The container described in Claim 1 further comprising, a deformable conduit passing through said opening in said closure mechanism and through which a portion of said bag may be inserted into said lower portion.